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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

CINDY LAPID,

Plaintiff and Appellant,

v.

SANDRA J. KEENER et al.,

Defendants and Respondents.

D074216

(Super. Ct. No. 37-2018-00006360-
CU-HR-CTL)

APPEAL from an order of the Superior Court of San Diego County, Eddie C. Sturgeon, Judge. Affirmed.

Cindy Lapid, in pro. per., for Plaintiff and Appellant.

No appearance for Defendants and Respondents.

Cindy Lapid appeals from the denial of a request for a civil harassment restraining order against Sandra J. Keener and Guadalupe Medrano. As we will explain, Lapid has not filed an adequate record on appeal, and we accordingly affirm the order denying a restraining order.

I.

FACTUAL AND PROCEDURAL BACKGROUND

Lapid is a resident in a senior apartment building in downtown San Diego. Keener is another resident of the apartment building, and Medrano is a former manager of the apartment building. On February 5, 2018, Keener and Lapid got into a dispute in the lobby of the apartment building concerning whether the door to the building's inner courtyard should be kept open or closed. Keener filed a police report, which stated that Lapid pushed her and slapped her arm during the incident. Lapid disputes the version of events contained in the police report.

On February 6, 2018, Lapid filed an application for a civil harassment restraining order against Keener and Medrano. (Code of Civ. Proc., § 527.6.)¹ According to Lapid, Medrano was included in the restraining order application because, shortly after the confrontation between Keener and Lapid, Medrano entered the lobby and sat next to Lapid while videotaping her and calling the police.

On March 22, 2018, at a hearing at which all parties appeared, the trial court denied Lapid's request for a restraining order. The trial court's order stated that Lapid had not proved her case by clear and convincing evidence.

Lapid filed a notice of appeal on March 23, 2018. No court reporter was present at the hearing, but Lapid prepared a proposed settled statement and submitted it to the trial court. The proposed settled statement includes a long narrative about Lapid's view of the

¹ Unless otherwise indicated, all further statutory references are to the Code of Civil Procedure.

case, as well as a statement of what she said at the hearing, based on the notes she used during her presentation. The proposed settled statement also attached certain exhibits and the trial court's order denying the request for a restraining order. On August 28, 2018, the trial court certified that Lapid's settled statement "is accurate as to [Lapid's] representation," and noted that Keener and Medrano had not responded regarding the proposed settled statement.

According to Lapid's notice designating the record on appeal, she elected to proceed by means of an appellant's appendix pursuant to California Rules of Court, rule 8.124. On September 5, 2018, the clerk of the court sent a letter to Lapid notifying her that the appellant's appendix and opening brief were due within 40 days. However, Lapid did not file an appellant's appendix.

II.

DISCUSSION

Lapid sought a civil harassment restraining order pursuant to Code of Civil Procedure section 527.6, which provides that "[a] person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order and an order after hearing prohibiting harassment as provided in this section." (§ 527.6, subd. (a)(1).) Section 527.6, subdivision (b)(3) defines "harassment" as "unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be that which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional

distress to the petitioner." (§ 527.6, subd. (b)(3).) Section 527.6, subdivision (i), requires "clear and convincing evidence that unlawful harassment exists." (*Parisi v. Mazzaferro* (2016) 5 Cal.App.5th 1219, 1227.) An injunction restraining future conduct is only authorized when it appears harassment is likely to recur in the future. (*Russell v. Douvan* (2003) 112 Cal.App.4th 399, 402.) "We review the trial court's decision to grant the restraining order for substantial evidence." (*Harris v. Stampolis* (2016) 248 Cal.App.4th 484, 497.)

Although Lapid followed the proper procedure for obtaining a settled statement to support her appeal in the absence of a reporter's transcript, she neglected another crucial step in developing the record on appeal in that she did not file an appellant's appendix. An appellant's appendix, if filed, would have included documents that the court requires to evaluate Lapid's appeal. Because Lapid did not file an appellant's appendix the appellate record does not contain necessary documents such as (1) Lapid's request for a civil harassment restraining order so that we can determine the relief she sought; and (2) the responses filed by Keener and Medrano setting forth their arguments and evidence in response, so that we can determine whether those responses contain support for the trial court's decision.

"[I]t is a fundamental principle of appellate procedure that a trial court judgment is ordinarily presumed to be correct and the burden is on an appellant to demonstrate, on the basis of the record presented to the appellate court, that the trial court committed an error that justifies reversal of the judgment. . . . 'This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error.' . . .

'In the absence of a contrary showing in the record, all presumptions in favor of the trial court's action will be made by the appellate court. "[I]f any matters could have been presented to the court below which would have authorized the order complained of, it will be presumed that such matters were presented." ' . . . ' "A necessary corollary to this rule is that if the record is inadequate for meaningful review, the appellant defaults and the decision of the trial court should be affirmed." ' . . . 'Consequently, [the appellant] has the burden of providing an adequate record. [Citation.] Failure to provide an adequate record on an issue requires that the issue be resolved against [the appellant].' " (*Jameson v. Desta* (2018) 5 Cal.5th 594, 608-609, citations omitted.)

Here, because the appellate record does not contain necessary documents, including Lapid's request for a civil harassment restraining order and the responses by Keener and Medrano, we are unable to determine whether there is merit to Lapid's contention on appeal that substantial evidence does not support the trial court's finding that Lapid failed to prove that she was entitled to a restraining order against Keener and Medrano. Accordingly, we conclude that Lapid has not met her burden on appeal to establish that the trial court's order should be reversed.

DISPOSITION

The order is affirmed.

IRION, J.

WE CONCUR:

HUFFMAN, Acting P. J.

GUERRERO, J.